

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

NOTE: There is one Extraordinary issue to the Official Gazette, Series I No. 23 dated 3-9-1998 namely, Extraordinary dated 8-9-98 from pages 307 to 310 regarding Notification from Department of Law and Judiciary (Legal Affairs Division).

### GOVERNMENT OF GOA

#### Department of Law and Judiciary

Legal Affairs Division

#### Notification

10/5/96-LA-Vol.II

The Supreme Court and High Court Judges (Conditions of Service) Amendment Act, 1996 (Central Act 20 of 1996), which has been passed by the Parliament and assented to by the President of India on 31st July, 1996 and published in the Gazette of India, Extraordinary, Part II Section I dated 31st July, 1996 is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 14th April, 1997.

#### THE SUPREME COURT AND HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1996

AN

ACT

furtherto amend the Supreme Court Judges (Conditions of Service) Act, 1958 and the High Court Judges (Conditions of Service) Act, 1954.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

#### CHAPTER I

##### Preliminary

1. *Short title and commencement:*— (1) This Act may be called the Supreme Court and High Court Judges (Conditions of Service) Amendment Act, 1996.

(2) It shall be deemed to have come into force on the 11th day of January, 1996.

#### CHAPTER II

##### Amendment of the Supreme Court Judges (Conditions of Service) Act, 1958

2. *Amendment of section 23A.*— In section 23A of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme Court Judges Act), for the words “one hundred and fifty litres of petrol every month or the actual consumption of petrol”, the words “two hundred litres of fuel every month or the actual consumption of fuel” shall be substituted.

3. *Amendment of section 23B.*— In section 23B of the Supreme Court Judges Act, for the words “one thousand two hundred and fifty” and “seven hundred and fifty” the words “four thousand” and “three thousand” shall respectively be substituted.

#### CHAPTER III

##### Amendment of the High Court Judges (Conditions of Service) Act, 1954

4. *Amendment of section 22B.*— In section 22B of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the High Court Judges Act), for the words “one hundred and fifty litres of petrol every month or the actual consumption of petrol”, the words “two hundred litres of fuel every month or the actual consumption of fuel” shall be substituted.

5. *Amendment of section 22C.*— In section 22C of the High Court Judges Act, for the words “five hundred” and “three hundred”, the words “three thousand” and “two thousand” shall respectively be substituted.

6. *Repeal and saving.*— (1) The Supreme Court and High Court Judges (Conditions of Service) Amendment Third Ordinance, 1996, is hereby repealed. Ord. 29 of 1996.

(2) Notwithstanding such repeal, anything done or any action taken under the Supreme Court Judges Act and the High Court Judges Act, as amended by the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of the respective Act aforesaid as amended by this Act.

**Notification**

10-5-96/LA-Vol.II

The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1996 (Central Act 16 of 1996) which has been passed by the Parliament and assented to by the President of India on 31st July, 1996 and published in the Gazette of India, Extraordinary, Part II, Section I dated 31st July, 1996, is hereby published for general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 7th April, 1997.

**THE PREVENTION OF ILLICIT TRAFFIC IN  
NARCOTIC DRUGS AND PSYCHOTROPIC  
SUBSTANCES (AMENDMENT) ACT, 1996**

AN

ACT

*further to amend the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.*

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. *Short title.* — This Act may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1996.

2. *Amendment of section 10 of Act 46 of 1988.* — In the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, in section 10, in sub-section (1), for the figures, letters and words “31st day of July, 1996”, the figures, letters and words “31st day of July, 1999” shall be substituted.

**Notification**

10/5/96/LA-Vol.II

The National Environment Appellate Authority Act, 1997 (Central Act 22 of 1997), which has been passed by Parliament and assented to by President of India on 26th March, 1997 and published in the Gazette of India, Extraordinary, Part II, Section I dated 26th March, 1997 is hereby published for the general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 24th September, 1997.

**THE NATIONAL ENVIRONMENT APPELLATE  
AUTHORITY ACT, 1997**

AN  
ACT

*to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or*

*class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

**CHAPTER I**

**Preliminary**

1. *Short title and commencement.* — (1) This Act may be called the National Environment Appellate Authority Act, 1997.

(2) It shall be deemed to have come into force on the 30th day of January, 1997.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “Act” means the Environment (Protection) Act, 1986;

29 of 1986.

(b) “Authority” means the National Environment Appellate Authority established under sub-section (1) of section 3;

(c) “Chairperson” means the Chairperson of the Authority;

(d) “Member” means a Member of the Authority;

(e) “prescribed” means prescribed by rules made under this Act;

(f) “Vice-Chairperson” means the Vice-Chairperson of the Authority.

**CHAPTER II**

**Establishment of Authority**

3. *Establishment of Authority.*— (1) The Central Government shall, by notification in the Official Gazette, establish a body to be known as the National Environment Appellate Authority to exercise the powers conferred upon, and to perform the functions assigned to, it under this Act.

(2) The head office of the Authority shall be at Delhi.

4. *Composition of Authority.*— The Authority shall consist of a Chairperson, a Vice-Chairperson and such other Members not exceeding three, as the Central Government may deem fit.

5. *Qualifications for appointment as Chairperson, Vice-Chairperson or Member.*— (1) A person shall not be qualified for appointment as a Chairperson unless he has been—

(a) a Judge of the Supreme Court; or

(b) the Chief Justice of a High Court.

(2) A person shall not be qualified for appointment as a Vice-Chairperson unless he has—

(a) for at least two years held the post of a Secretary to the Government of India or any other post under the Central or State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; and

(b) expertise or experience in administrative, legal, managerial or technical aspects of problems relating to environment.

(3) A person shall not be qualified for appointment as a Member unless he has professional knowledge or practical experience in the areas pertaining to conservation, environmental management, law or planning and development.

(4) The Chairperson, the Vice-Chairperson and the Members shall be appointed by the President.

6. *Vice-Chairperson to act as Chairperson or to discharge his functions in certain circumstances.*— (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Vice-Chairperson shall act as the Chairperson until the date on which a new Chairperson appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairperson or, as the case may be, such one of the Member as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

7. *Term of office.*— The Chairperson, the Vice-Chairperson or a Member shall hold office as such for a term of three years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of three years:

Provided that no Chairperson, Vice-Chairperson or Member shall hold office as such after he has attained,—

(a) in the case of the Chairperson, the age of seventy years; and

(b) in the case of the Vice-Chairperson or a Member, the age of sixty-five years.

8. *Resignation and removal.*— (1) The Chairperson, the Vice-Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

• Provided that the Chairperson, the Vice-Chairperson or a Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson, the Vice-Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson, the Vice-Chairperson or a Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The President may suspend from office the Chairperson, the Vice-Chairperson or a Member in respect of whom a reference has been made to the Supreme Court under sub-section (2) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, the Vice-Chairperson or a Member referred to in sub-section (2).

9. *Salaries and allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and Members.*— The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson, the Vice-Chairperson and the Members shall be such as may be prescribed by the Central Government.

10. *Vacancy in Authority not to invalidate acts or proceedings.*— No act or proceedings of the Authority shall be questioned or shall be invalid merely on the ground of existence of any vacancy or defect in the establishment of the Authority.

### CHAPTER III

#### Jurisdiction and Powers of Authority

11. *Appeals to Authority.*— (1) Any person aggrieved by an order granting environmental clearance in the areas in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards may, within thirty days from the date of such order, prefer an appeal to the Authority in such form as may be prescribed:

Provided that the Authority may entertain any appeal after the expiry of the said period of thirty days but not after ninety days from the date aforesaid if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) For the purposes of sub-section (1), "person" means—

(a) any person who is likely to be affected by the grant of environmental clearance;

(b) any person who owns or has control over the project with respect to which an application has been submitted for environmental clearance;

(c) any association of persons (whether incorporated or not) likely to be affected by such order and functioning in the field of environment;

(d) the Central Government, where the environmental clearance is granted by the State Government and the State Government, where the environmental clearance is granted by the Central Government; or

(e) any local authority, any part of whose local limits is within the neighbourhood of the area wherein the project is proposed to be located.

(3) On receipt of an appeal preferred under sub-section (1), the Authority shall, after giving the appellant an opportunity of being heard, pass such orders, as it thinks fit.

(4) The Authority shall dispose of the appeal within ninety days from the date of filing the appeal:

Provided that the Authority may for reasons to be recorded in writing, dispose of the appeal within a further period of thirty days.

12. *Procedure and powers of Authority.* — (1) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Authority shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private. 5 of 1908.

(2) The Authority shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requiring any public record or document or copy of such record or document from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing a representation, for default or deciding it, *ex-parte*;

(h) setting aside any order of dismissal of any representation for default or any order passed by it *ex-parte*; and

(i) any other matter which is required to be, or may be, prescribed by the Central Government.

13. *Financial and administrative powers of Chairperson.* — The Chairperson shall exercise such financial and administrative powers as may be vested in him under the rules:

Provided that the Chairperson shall have authority to delegate such of his financial and administrative powers as he may think fit to the Vice-Chairperson or any other officer subject to the condition that the Vice-Chairperson or such other officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

14. *Staff of Authority.* — (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and other employees as it may think fit.

(2) The officers and other employees of the Authority shall discharge their functions under the general superintendence of the Chairperson.

(3) The salaries and allowances and conditions of service of the officers and other employees shall be such as may be prescribed.

## CHAPTER IV

### Miscellaneous

15. *Bar of jurisdiction.* — With effect from the date of establishment of the Authority, no civil court or other authority shall have jurisdiction to entertain any appeal in respect of any matter with which the Authority is so empowered by or under this Act.

16. *Proceedings before the Authority to be judicial proceedings.* — All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

17. *Members and staff of Authority to be public servants.* — The Chairperson, the Vice-Chairperson and the Members and the officers and other employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

18. *Protection of action taken in good faith.* — No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson, the Vice-Chairperson or a Member of the Authority or any other person authorised by the Chairperson, the Vice-Chairperson or a Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

19. *Penalty for failure to comply with orders of Authority.* — Whoever fails to comply with any order made by the Authority, he shall be punishable with imprisonment for a term which may extend to seven years, or with fine which may extend to one lakh rupees, or with both.

20. *Offences by companies.* — (1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business

of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.* — For the purposes of this section, —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

21. *Power to remove difficulties.* — (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date on which this Act receives the assent of the President.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

22. *Power to make rules.* — (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure under sub-section (4) of section 8 for the investigation of misbehaviour or incapacity of the Chairperson, the Vice-Chairperson or a Member;

(b) the salaries and allowances payable to and the other terms and conditions of service of the Chairperson, the Vice-Chairperson and the Members under section 9;

(c) the form which an appeal shall contain under sub-section (1) of section 11;

(d) financial and administrative powers of the Chairperson under section 13;

(e) the salaries and allowances and conditions of service of

the officers and other employees of the Authority;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. *Repeal and saving.* — (1) The National Environment Appellate Authority Ordinance, 1997 is hereby repealed. Ord. 12 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

#### Notification

10-5-96/LA-Vol. II

The Lotteries (Regulation) Ordinance, 1997 (Ordinance No. 20 of 1997) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II Section I dated 1st October, 1997 is hereby published for general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 3rd November, 1997.

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1st October, 1997/Asvina 9, 1919 (Saka)

#### THE LOTTERIES (REGULATION) ORDINANCE, 1997

No. 20 of 1997

promulgated by the President in the Forty-eighth Year of the Republic of India.

An Ordinance to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Lotteries (Regulation) Ordinance, 1997.

(2) It shall extend to the whole of India.

(3) It shall come into force on the 2nd day of October, 1997.

2. *Definitions.*— In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “lottery” means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(b) “prescribed” means prescribed by rules made under this Ordinance.

3. *Prohibition of lotteries.*— Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

4. *Conditions subject to which lotteries may be organised, etc.*— A State Government may organise, conduct or promote a lottery, subject to the following conditions, namely:—

(a) prizes shall not be offered on any preannounced number or on the basis of a single digit;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents;

(d) the State Government itself shall conduct the draws of all the lotteries;

(e) the prize money unclaimed within such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government;

(f) the place of draw shall be located within the State concerned;

(g) no lottery shall have more than one draw in a week;

(h) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government;

(i) the number of bumper draws of a lottery shall not be more than six in a calendar year;

(j) such other conditions as may be prescribed by the Central Government.

5. *Prohibition of sale of ticket in a State.*— A State Government may, within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by another State.

6. *Prohibition of organisation, etc., of lottery.*— The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

7. *Penalty.*— If any person acts as an agent, a promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Ordinance or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both.

8. *Offences to be cognizable and non-bailable.*— The offence under this Ordinance shall be cognizable and non-bailable.

9. *Offences by companies.*— (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section—

(a) “company”, means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

10. *Power to give directions.*— The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Ordinance or of any rule or order made thereunder.

11. *Power of Central Government to make rules.*— (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) Every notification issued by the Central Government, and every rule made by it, shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the notification or rule, or both Houses agree that the notification or rule should not be made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

12. *Power of State Government to make rules.*— (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) time to be fixed for claiming prize money under clause (e) of sub-section (2) of section 4;

(b) period to be fixed for draws of all lotteries under clause (h) of sub-section (2) of section 4; and

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

K. R. NARAYANAN,

*President.*

K. L. MOHANPURIA,

*Secy. to the Govt. of India.*

#### Notification

10-4-98/LA

The Lotteries (Regulation) Ordinance, 1998 (Ordinance No. 6 of 1998) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section I, dated 23rd April, 1998, is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 20th May, 1998.

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)

#### THE LOTTERIES (REGULATION) ORDINANCE, 1998

No. 6 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India

An Ordinance to regulate the lotteries and to provide for matters connected therewith and incidental thereto.

Whereas the Lotteries (Regulation) Ordinance, 1997, to provide for the aforesaid matters was promulgated by the President on the 1st day of October, 1997;

And Whereas for giving continued effect to the provisions of the said Ordinance, the Lotteries (Regulation) Second Ordinance, 1997 was promulgated by the President on the 30th day of December, 1997;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Lotteries (Regulation) Second Ordinance, 1997;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title, extent and commencement.*— (1) This Ordinance may be called the Lotteries (Regulation) Ordinance, 1998.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 2nd day of October, 1997.

2. *Definitions.*— In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets;

(b) "prescribed" means prescribed by rules made under this Ordinance.

3. *Prohibition of lotteries.*— Save as otherwise provided in section 4, no State Government shall organise, conduct or promote any lottery.

4. *Conditions subject to which lotteries may be organised, etc.*— A State Government may organise, conduct or promote a lottery, subject to the following conditions, namely:—

(a) prizes shall not be offered on any preannounced number or on the basis of a single digit;

(b) the State Government shall print the lottery tickets bearing the imprint and logo of the State in such manner that the authenticity of the lottery ticket is ensured;

(c) the State Government shall sell the tickets either itself or through distributors or selling agents;

(d) the State Government itself shall conduct the draws of all lotteries;

(e) the prize money unclaimed within such time as may be prescribed by the State Government or not otherwise distributed, shall become the property of that Government;

(f) the place of draw shall be located within the State concerned;

(g) no lottery shall have more than one draw in a week;

(h) the draws of all kinds of lotteries shall be conducted between such period of the day as may be prescribed by the State Government;

(i) the number of bumper draws of a lottery shall not be more than six in a calendar year;

(j) such other conditions as may be prescribed by the Central Government.

5. *Prohibition of sale of ticket in a State.* — A State Government may, within the State, prohibit the sale of tickets of a lottery organised, conducted or promoted by another State.

6. *Prohibition of organisation, etc. of lottery.* — The Central Government may, by order published in the Official Gazette, prohibit a lottery organised, conducted or promoted in contravention of the provisions of section 4 or where tickets of such lottery are sold in contravention of the provisions of section 5.

7. *Penalty.* — If any person acts as an agent, a promoter or trader in any lottery organised, conducted or promoted in contravention of the provisions of this Ordinance or sells, distributes or purchases the ticket of such lottery, he shall be punishable with rigorous imprisonment for a term which may extend to two years or with fine or with both.

8. *Offences to be cognizable and non-bailable.* — The offence under this Ordinance shall be cognizable and non-bailable.

9. *Offences by companies.* — (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.* — For the purposes of this section —

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

10. *Power to give directions.* — The Central Government may give directions to the State Government as to carrying into execution in the State of any of the provisions of this Ordinance or of any rule made thereunder.

11. *Power of Central Government to make rules.* — (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) Every rule made by the Central Government, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

12. *Power of State Government to make rules.* — (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) time to be fixed for claiming prize money under clause (e) of section 4;

(b) period to be fixed for draws of all lotteries under clause (h) of section 4; and

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

13. *Repeal and Saving.* — (1) The Lotteries (Regulation) Second Ordinance, 1997, is hereby repealed. Ord. 31 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

K.R.NARAYANAN,  
President.

RAGHBIR SINGH,  
Secy. to the Govt. of India.

**Notification**

10-4-98/LA

The High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance, 1998 (Ordinance No. 11 of 1998) which has been promulgated by the President of India and published in Gazette of India, Extraordinary, Part II, Section I, dated 24th April, 1998, is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 20th May, 1998.

**MINISTRY OF LAW AND JUSTICE**

(Legislative Department)

New Delhi, the 24th April, 1998/Vaisakha 4, 1920 (Saka)

**THE HIGH COURT AND SUPREME COURT JUDGES  
(CONDITIONS OF SERVICE) AMENDMENT ORDINANCE, 1998**

No. 11 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

**CHAPTER I**

**Preliminary**

1. *Short title and commencement.* — (1) This Ordinance may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Ordinance, 1998.

(2) It shall be deemed to have come into force on the 1st day of January, 1996.

**CHAPTER II**

Amendment of the High Court Judges (Conditions of Service) Act, 1954.

2. *Amendment of long title.* — In the long title to the High Court Judges (Conditions of Service) Act, 1954, (hereinafter referred to as the High Court 28 of 1954.

Judges Act), for the words “certain conditions of service”, the words “salaries and certain conditions of service” shall be substituted.

3. *Amendment of section 1.* — In section 1 of the High Court Judges Act, for the brackets and words “(Conditions of Service)”, the brackets and words “(Salaries and Conditions of Service)” shall be substituted.

4. *Amendment of Chapter III.* — In Chapter III of the High Court Judges Act,—

(a) for the heading “Pensions”, the heading “Salaries and Pensions” shall be substituted; and

(b) after the heading as so substituted and before section 14, the following section shall be inserted, namely:—

“13A. *Salaries of the Judges.*— (1) There shall be paid to the Chief Justice of a High Court by way of salary thirty thousand rupees per mensem.

(2) There shall be paid to a Judge of a High Court by way of salary twenty-six thousand rupees per mensem.”.

**CHAPTER III**

Amendment of the Supreme Court Judges (Conditions of Service) Act, 1958

5. *Amendment of long title.*—In the long title to the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter referred to as the Supreme 41 of 1958. Court Judges Act), for the words “certain conditions of service”, the words “salaries and certain conditions of service” shall be substituted.

6. *Amendment of section 1.* — In section 1 of the Supreme Court Judges Act, for the brackets and words “(Conditions of Service)”, the brackets and words “(Salaries and Conditions of Service)” shall be substituted.

7. *Amendment of Chapter III.*— In Chapter III of the Supreme Court Judges Act,—

(a) for the heading “Pensions”, the heading “Salaries and Pensions” shall be substituted; and

(b) after the heading as so substituted and before section 13, the following section shall be inserted, namely:—

“12A. *Salaries of the Judges.* — (1) There shall be paid to the Chief Justice of India by way of salary thirty-three thousand rupees per mensem.

(2) There shall be paid to a Judge of the Supreme Court by way of salary thirty thousand rupees per mensem.”.

**CHAPTER IV**

**Transitional Provision**

8. *Arrears.* — The difference of salary payable to a Judge of a High Court under the High Court Judges Act or a Judge of the

Supreme Court under the Supreme Court Judges Act, as amended by this Ordinance, and salary payable to such Judge but for this Ordinance, shall be paid in two instalments, the first instalment being five thousand rupees plus fifty per cent of the balance of such difference to be paid as early as may be practicable, and the second instalment to be paid within such period as may be decided by the Central Government.

K. R. NARAYANAN,

*President.*

RAGHBIR SINGH,

*Secy. to the Govt. of India.*

#### Notification

10-4-98/LA

The Representation of the People (Amendment) Ordinance, 1998 (Ordinance No. 12 of 1998) which has been promulgated by the President of India, and published in the Gazette of India, Extraordinary, Part II Section I, dated 24th April, 1998, is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 20th May, 1998.

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th April, 1998/Vaishaka 4, 1920 (Saka)

#### THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ORDINANCE, 1998

No. 12 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Representation of the People Act, 1951.

Whereas the representation of the People (Amendment) Ordinance, 1997 further to amend the Representation of the People Act, 1951 was promulgated by the President on the 23rd day of December, 1997;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the said Ordinance;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.* — (1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come into force on the 23rd day of December, 1997.

2. *Substitution of new section for section 159 of Act 43 of 1951.*— For section 159 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), the following section shall be substituted, namely;—

“159. *Staff of certain authorities to be made available for election work.* — (1) The authorities specified in sub-section (2) shall, when so requested by a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any returning officer such staff as may be necessary for the performance of any duties in connection with an election.

(2) The following shall be the authorities for the purpose of sub-section (1), namely:—

(i) every local authority;

(ii) every university established by a Central, Provincial or State Act;

(iii) any other institution, concern or undertaking (not being an institution, a concern or an undertaking established under a Central, Provincial or State Act or a company within the meaning of section 617 of the Companies Act, 1956) controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.”

3. *Repeal and saving.* — (1) The Representation of the People (Amendment) Ordinance, 1997, is hereby repealed. Ord. 23 of 1997

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

K. R. NARAYANAN,

*President.*

RAGHBIR SINGH,

*Secy. to the Govt. of India.*

#### Notification

10-4-98/LA

The Payment of Gratuity (Amendment) Ordinance, 1998 (Ordinance No. 10 of 1998) which has been promulgated by the

President of India and published in the Gazette of India, Extraordinary, Part II, Section I dated 23rd April, 1998 is hereby published for general information of the public.

*P. V. Kadneker, Joint Secretary (Law).*

Panaji, 21st May, 1998.

# MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 23rd April, 1998/Vaisakha 3, 1920 (Saka)*

## THE PAYMENT OF GRATUITY (AMENDMENT) ORDINANCE, 1998

No. 10 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India.

An Ordinance further to amend the Payment of Gratuity Act, 1972.

Whereas a Bill further to amend the Payment of Gratuity Act, 1972, was introduced in the Council of States but has not yet been passed;

And Whereas the Payment of Gratuity (Amendment) Ordinance, 1997 to give effect to the provisions of the said Bill was promulgated by the President on the 24th day of September, 1997;

And Whereas the House of the People had been dissolved and the Payment of Gratuity (Amendment) Second Ordinance, 1997 to give continued effect to the provisions of the said Ordinance was promulgated by the President on the 25th day of December, 1997;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action to give continued effect to the provisions of the Payment of Gratuity (Amendment) Second Ordinance, 1997;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.* — (1) This Ordinance may be called the Payment of Gratuity (Amendment) Ordinance, 1998.

(2) It shall be deemed to have come in to force on 24th day of September, 1997.

2. *Amendment of section 4 of Act 39 of 1972.* — In section 4 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in sub-section (3), for the words "one lakh", the words "two lakhs and fifty thousand" shall be substituted.

3. *Repeal and saving.* — (1) The Payment of Gratuity (Amendment) Second Ordinance, 1997, is hereby repealed. Ord. 26 of 1997.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Ordinance so repealed, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

*K.R. NARAYANAN,*

*President.*

*RAGHBIR SINGH,*

*Secy. to the Govt. of India.*

## Notification

10-4-98/LA

The Essential Commodities (Amendment) Ordinance, 1998 (Ordinance No. 13 of 1998) which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section I, dated 25th April, 1998, is hereby published for the general information of the public.

*P. V. Kadneker, Joint Secretary (Law).*

Panaji, 21st May, 1998.

# MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 25th April, 1998/Vaisakha 5, 1920 (Saka)*

## THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1998

No. 13 of 1998

Promulgated by the President in the Forty-ninth Year of the Republic of India

An Ordinance further to amend the Essential Commodities Act, 1955.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.* — (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 1998.

(2) It shall come into force at once.

2. *Amendment of section 2.*— In section 2 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act),—

(a) clause (ia) shall be re-numbered as clause (iia), and before clause (iia) as so re-numbered, the following clause shall be inserted, namely:—

“(ia) “Code means the code of Criminal procedure 1973;”, and 2 of 1973.

(b) in clause (a), sub-clause (iii) shall be omitted;

(c) after clause (e), the following clause shall be inserted, namely;—

“(f) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in that Code.”

3. *Amendment of section 3.*— In section 3 of the principal Act,—

(i) in sub-section (2), to clause (j), the following proviso shall be inserted, namely:—

“Provided that where a person authorised under an order issued under this section to make the entry, search, examination or seizure is below the rank of a Magistrate of the first class or its equivalent, he shall obtain prior permission of an officer not below the rank of a Magistrate of the first class or its equivalent before making such entry, search, examination or seizure.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) An order made under this section may provide for certain allowance for difference between physical stock and stock in record of any essential commodity which may occur due to climatic conditions or handling of the essential commodity.”

4. *Amendment of section 6A.*— In section 6A of the principal Act, for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

“Provided that, in case of any essential commodity the retail sale price whereof has been fixed by the Central Government or a State Government under this Act or under any other law for the time being in force and which is being sold through fair price shops, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price so fixed.”

5. *Amendment of section 7.*— In section 7 of the principal Act,—

(a) in sub-section (1), in clause (a),—

(i) for sub-section (i), the following sub-clause shall be substituted, namely:—

“(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with

imprisonment for a term which may extend to one year; or with fine which may extend to ten thousand rupees, or with both;

Provided that, if any person is again convicted of the same offence under this sub-clause, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than three months but which may extend to one year and with fine which may extend to twenty thousand rupees or with both;

Provided further that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;”;

(ii) in sub-clause (ii), for the words “seven years and shall also be liable to fine”, the words “two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees” shall be substituted;”;

(b) in sub-section (2), for the words “seven years and shall also be liable to fine”, the words “two years and shall also be liable to fine which shall not be less than twenty-five thousand rupees” shall be substituted;

(c) in sub-section (2A), for the words “seven years and shall also be liable to fine”, the words “two years and shall also be liable to fine which shall not be less than fifty-thousand rupees” shall be substituted.

6. *Amendment of section 10A.*— For section 10A of the principal Act, the following section shall be substituted, namely:—

“10A. *Provision as to cognizance and bill.*— Notwithstanding anything contained in the Code, every offence punishable under—

(a) this Act shall be cognizable;

(b) this Act, except under sub-section (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, shall be non-bailable;

(c) sub-clause (h) or sub-clause (i) of clause (a) of sub-section (1) of section 7, if committed more than once, shall be non-bailable for the second and every subsequent offence.”

7. *Insertion of new section 10AA.*— After section 10A of the principal Act, the following section shall be inserted, namely:—

“10AA. *Power to arrest.*— Notwithstanding anything contained in the Code, no officer below the rank of sub-inspector of police shall arrest any person accused of committing an offence punishable under this Act.”

8. *Omission of section 12.*— Section 12 of the principal Act shall be omitted.

9. *Substitution of new section for section 12A.*— For section 12A of the principal Act, the following sections shall be substituted, namely:—

‘12A. *Constitution of Special Court.*— (1) The State Government may, for the purpose of providing speedy trial of

the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

(2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government.

*Explanation.*— In this sub-section, the word “appoint” shall have the meaning given to it in the *Explanation* to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless—

(a) he is qualified for appointment as a Judge of a High Court, or

(b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge.

12AA. *Offences triable by special courts.* — (1) Notwithstanding anything contained in the Code,—

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court;

(b) a Special Court may, upon a perusal of police report of the fact constituting an offence under this Act or upon a complaint made by an Officer of the Central Government or a State Government authorised in this behalf by the Government concerned or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not, take cognizance of that offence without the accused being committed to it for trial;

(c) all offences under this Act shall be tried in a summary way and the provisions of section 262 to 265 (both inclusive) of the Code shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this Section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial:

Provided that such other offence is, under any other law for the time being in force, triable in a summary way:

Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law.

(3) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof and any pardon so tendered shall, for the purposes of section 308 of the Code, be deemed to have been tendered under section 307 thereof.

12AB. *Appeal and revision.* — The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court.

12AC. *Application of Code to proceedings before a Special Court.* — Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceeding before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor.

10. *Repeal and saving.* — (1) The Essential Commodities (Special Provisions) Second Ordinance, 1998 is hereby repealed. Ord. 1 of 1998.

(2) Notwithstanding such repeal, if any appeal, application, trial, inquiry or investigation is pending immediately before such repeal, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the principal Act as amended by the Essential Commodities (Special Provisions) Ordinance, 1998 as in force immediately before the commencement of this Ordinance, as if, this Ordinance had not come into force.

K. R. NARAYANAN,

*President.*

RAGHBIR SINGH,

*Secy. to the Govt. of India.*